IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Reference No. 5 of 2006

Shri M.S.Mungale,
Judge, Small Causes Court, Mumbai. Petitioner
Vs.
Mr.Anil G. Gidwani Respondent

Ms.P.H.Kantharia, APP for State.
Mrs.Shanta Mhatre, witness present in Court.
Mr.Anil G. Gidwani - respondent present.

CORAM: B.H.MARLAPALLE & J.H.BHATIA,JJ.

December 21, 2006.

P.C.

1. We have heard Ms. Kantharia, the learned APP as well as Mr. Anil Gidwani, the respondent in person against whom a show cause notice was issued by us in this reference on 17/10/2006.

2. After the paper book copy was made available to the respondent, he has submitted his reply explaining the circumstances under which he was issued a show cause notice on 17/8/2005. From the said show cause notice it is clear that the first alleged contempt had taken place on 3/8/2005, the second instance on 10/8/2005 and the third instance on 11/8/2005. The learned trial Judge made this reference vide his letter dated 13/6/2006 praying to

this Court to initiate contempt proceedings against the respondent for criminal contempt of the Court within the meaning of Section 2(c) of the Contempt of Courts Act, 1971. As noted earlier the first show cause notice came to be issued by us on 17/10/2006. The respondent in his reply has taken the issue of limitation by relying upon the provisions of Section 20 of the Contempt of Courts Act, 1971 and submitted that this reference cannot be continued as being beyond limitations.

3. The issue of limitations within the meaning of Section 20 of the Contempt of Courts Act, 1971 fell for considerations before a three-Judge Bench of the Supreme Court in the case of Pallav Sheth v. Custodian & ors. **[AIR 2001 SC 2763]** and having regards to the said interpretations, it is clear that this reference fails as being time barred in asmuchas the cause for initiating contempt proceedings arose between 3rd and 11th August 2005 and the first show cause notice by this Court has been issued on 17/10/2006 i.e. after more than one year. It is thus clear that the notice issued is beyond the period of limitation of one year and the law laid down by the Supreme Court in the case of Pallav Sheth

(Supra) does not permit us to proceed further in view of the provisions of Section 20 of the Contempt of Courts Act, 1971.

4. However, the respondent, party in person, in his arguments before us as well as in his written reply has shown remorse for his utterances as set out in the show cause notice issued by the referring Court and he has tendered his unconditional apology before us. He has in no uncertain words expressed his repentance before us and has assured us that he would not engage himself in such errant or contemptuous behaviour in future before any Court. We accept the said apology and undertaking being genuine and bona fide.

5. While we have accepted the undertaking and apology, we reject the reference being time barred.

(J.H.BHATIA,J.) (B.H.MARLAPALLE,J.)